



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

JRE
Docket No: 1547-99
16 November 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 November 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you underwent a period physical examination on 30 June 1998. The report of examination indicates that you were employed as a construction project engineer. You complained of a burning sensation in the back and right leg for several days after playing basketball. Physical examination disclosed no tenderness in your back, and you denied having any pain at that time. You had good range of motion in the back, and there was no objective evidence of weakness. Range of motion in your left ankle was reduced significantly as compared to your right ankle. Imaging studies disclosed the presence of hardware and some degenerative changes in your back and ankle. On 4 September 1998, the Physical Evaluation Board (PEB) made preliminary findings that you remained unfit for duty because of the residuals of a left pilon fracture, which it rated at 10%. The residuals of a left ankle fracture and L-3 compression fracture were not considered ratable. The findings of the PEB were mailed to you for review and comment on 15 September 1998. As you did not respond to the certified delivery notice and pick-up the notification letter, the letter was returned to the PEB. Your case was finalized by the President, PEB, on 19 October 1988, when he requested that the Commandant of the Marine Corps effect your discharge with

entitlement to disability severance pay. On 21 August 1999, the Department of Veterans Affairs confirmed and continued your 10% ratings for residuals of the compression fracture and left ankle fracture.

In the absence of evidence which demonstrates that you were entitled to a disability of 30% or higher at the time of your discharge by reason of physical disability, the Board was unable to recommend any corrective action in your case. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director